

§ 33.14

given to the person accused of the nature of the charges against him and of the specific instances in which violation of the act or the regulations in this part is charged.

§ 33.14 Opportunity for hearing.

The person accused shall be entitled to a hearing, provided he makes written request therefor and files a written responsive answer to the charges made not later than 10 days after service of such notice upon him. The right to hearing shall be restricted to matters in issue. At such hearing, he shall have the right to be present in person or by counsel and to submit evidence and argument in his behalf. Failure to request a hearing within the specified time or failure to appear at the hearing when scheduled shall be deemed a waiver of the right to hearing. Such person may, in lieu of requesting an oral hearing, file a sworn written statement with the Secretary not later than 10 days after service of such notice upon him.

§ 33.15 Suspension of inspection.

Any order to withhold the issuance of a certificate, as provided in section 6 of the act, will be effective from the date specified in the order but no earlier than the date of its service upon the person found to have been guilty. Such order will state the inclusive dates during which it is to remain in effect, and during this period no inspector employed or licensed by the Secretary shall issue any Export Form Certificate or Memorandum of Inspection to such person.

§ 33.16 Service of notice or order.

Service of any notice or order required by the act or prescribed by the regulations in this part shall be deemed sufficient if made personally upon the person served, by registered mail, or by leaving a copy of such notice or order with an employee or agent at such person's usual place of business or abode or with any member of his immediate family at his place of abode. If the person named is a partnership, association, or corporation, service may similarly be made by service on any member of the partnership or any offi-

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cer, employee, or agent of the association or corporation.

INTERPRETATIVE RULES

§ 33.50 Apples and pears for processing.

The terms "apples for processing" and "pears for processing" as used in § 33.12 of this part apply only and are restricted to packages of apples or pears which were originally packaged for processing and marked "Cannery" as required by § 33.12 (c) and (d) of this part. Packages of apples or pears not so originally packaged and marked are not eligible for certification as "apples for processing" or "pears for processing" for purposes of this part.

[25 FR 12430, Dec. 6, 1960]

§ 33.60 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0581-0143.

[49 FR 23825, June 8, 1984]

PART 34 [RESERVED]

PART 35—EXPORT GRAPES AND PLUMS

DEFINITIONS

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- 35.14 Notice.
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35.16 Suspension of inspection.

35.17 Service of notice or order.

35.60 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

AUTHORITY: 74 Stat. 734; 75 Stat. 220; 7 U.S.C. 591-599.

SOURCE: 26 FR 8934, Sept. 22, 1961, unless otherwise noted.

DEFINITIONS

§ 35.1 Act.

Act or *Export Grape and Plum Act* means "An Act to promote the foreign trade of the United States in grapes and plums, to protect the reputation of American-grown grapes and plums in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes" (74 Stat. 734; 75 Stat. 220; 7 U.S.C. 591-599).

§ 35.2 Person.

Person means an individual, partnership, association, corporation, or any other business unit.

§ 35.3 Secretary.

Secretary means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

§ 35.4 Carrier.

Carrier means any common or private carrier, including, but not being limited to, trucks, rail, airplanes, vessels, tramp or chartered steamers, whether carrying for hire or otherwise.

§ 35.5 Package.

Package means any container of any variety of vinifera species table grapes.

[41 FR 32877, Aug. 6, 1976]

§ 35.6 Shipment.

Shipment means one or more lots of any variety of vinifera species table grapes shipped or offered for shipment by any one person in a single convey-

ance to a foreign country regardless of the number of consignees, receivers, or ports of destination in that country.

[41 FR 32877, Aug. 6, 1976]

§ 35.7 Certificate.

Certificate or *Certificate of Inspection* means any of the official forms of inspection certificate, bearing the statement "meets Export Grape and Plum Act," issued by the Federal or Federal-State Inspection Service in accordance with regulations governing the inspection of fresh fruits, vegetables, and other products (7 CFR part 2851¹).

§ 35.8 Date of export.

Date of export means the date of loading on board the exporting carrier on which movement of the grapes from the United States is effected. The date of the on board bill of lading (or loading tally sheet) shall be considered to be the date the grapes were loaded on board, unless an "on board" date is shown.

REGULATIONS

§ 35.11 Minimum requirements.

No person shall ship, or offer for shipment, and no carrier shall transport, or receive for transportation, any shipment of any variety of vinifera species table grapes unless such grapes meet the following quality and container marking requirements applicable to the variety and destination specified:

(a) Any such variety for export to destinations in Japan, Europe (defined to mean the following countries: Albania, Austria, Belgium, Bulgaria, Czechoslovakia, Denmark, East Germany, England, Finland, France, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Netherlands, Northern Ireland, Norway, Poland, Portugal, Rumania, Scotland, Spain, Sweden, Switzerland, Wales, West Germany, Yugoslavia), or Greenland shall meet each applicable minimum requirement of the U.S. Fancy Table grape grade as specified in the U.S. Standards for Grades of Table Grapes (European or Vinifera Type) (§§51.880-51.912 of this title) except that

¹Part 2851 was redesignated as part 51 at 46 FR 63203, Dec. 31, 1981.